

**UNITED STATES DISTRICT COURT**

## EASTERN DISTRICT OF TEXAS

CHRISTOPHER GUILLEN,

Plaintiff,

*versus*

LORIE DAVIS, *et al.*,

Defendants.



CIVIL ACTION NO. 9:19-CV-187

**ORDER ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Christopher Guillen, an inmate formerly confined at the Lewis Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought this lawsuit pursuant to 42 U.S.C. § 1983. The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends granting the defendants' motion to dismiss and dismissing the above-styled action. Additionally, the magistrate judge recommends declining the exercise of supplemental jurisdiction. To date, the parties have not filed objections to the report.

The court received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. After careful review, the court finds that the findings of fact and conclusions of law of the United States Magistrate Judge are correct. Plaintiff has failed to allege or demonstrate the defendants acted with deliberate indifference to a substantial risk of serious harm. *See Farmer v. Brennan*, 511 U.S. 825, 837-40 (1994). The defendants' conduct in this case fails to rise to the egregious level required to state a claim under the Eighth Amendment. *See Gobert v. Caldwell*, 463 F.3d 339, 351 (5th Cir. 2006); *see also Watkins v. Lancor*, No. 13-C-0007, 2013 WL 812521 (E.D. Wis. Mar. 5, 2013) (finding prison officials' failure to fix broken dishwasher and provide

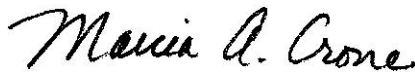
safety shoes to work on wet kitchen floors at best stated a claim for negligence and did not rise to the level of deliberate indifference).

Accordingly, the Report and Recommendation of the United States Magistrate Judge is **ADOPTED**. It is

**ORDERED** that the defendants' motion to dismiss is **GRANTED**. It is further

**ORDERED** that, to the extent plaintiff's complaint may be interpreted as asserting state law claims, the court declines to exercise supplemental jurisdiction in this action pursuant to 28 U.S.C. § 1367(c). A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 1st day of March, 2023.

A handwritten signature in black ink, reading "Marcia A. Crone", is positioned above a horizontal line.

MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE